

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2004-000590-001 DT

11/03/2004

HONORABLE MICHAEL D. JONES

CLERK OF THE COURT
P. M. Espinoza
Deputy

FILED:_____

STATE OF ARIZONA

B DON TAYLOR

v.

KENNETH CALEB PADILLA (001)

MICHAEL J DEW

PHX CITY MUNICIPAL COURT
REMAND DESK-LCA-CCC
HONORABLE JOANNE LANDFAIR
PHOENIX CITY COURT JUDGE
PHOENIX CITY MUNICIPAL COURT
300 W WASHINGTON ST
PHOENIX AZ 85003

RECORD APPEAL RULE / REMAND

PHOENIX CITY COURT

Cit. No. #13259109

Charge: 1) DUI-LIQUOR/DRUGS/VAPORS/COMBO
 2) DUI W/ BAC OF .08 OR MORE
 3) FAIL TO NOTIFY/STRIKE FIXTURE
 4) SPEED/REASONABLE AND PRUDENT

DOB: 10/25/81

DOC: 02/25/04

This Court has jurisdiction of this criminal appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A) and 13-4032.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

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This case has been under advisement since its assignment on September 8, 2004. This decision is made within 60 days as required by Rule 9.9, Maricopa County Superior Court Local Rules of Practice. This Court has considered and reviewed the record of the proceedings from the Phoenix City Court, and the memoranda and arguments submitted by counsel.

Appellee, Kenneth Caleb Padilla, was cited on February 25, 2004, with Driving While Under the Influence, a class 1 misdemeanor in violation of A.R.S. Section 28-1381(A)(1); Driving with a Blood Alcohol Content in Excess of .08, a class 1 misdemeanor in violation of A.R.S. Section 28-1381(A)(2); Leaving the Scene of An Accident, a class 3 misdemeanor in violation of A.R.S. Section 28-665; and Failure to Control Speed to Avoid an Accident, a civil traffic violation in violation of A.R.S. Section 28-701(A). This case proceeded to trial on May 3, 2004, before the Phoenix Municipal Court (the Honorable Joanne Landfair). At the conclusion of the State's case during the trial, Appellee moved pursuant to Rule 20, Arizona Rules of Criminal Procedure, for a Judgment of Acquittal. The trial judge denied that motion. At the conclusion of the trial, the trial judge invited Appellee's trial attorney to make a final motion for judgment of acquittal, and the trial judge granted this motion without explanation. The State has filed a timely Notice of Appeal from this order.

This Court's appellate review of a trial judge's decision on a motion for judgment of acquittal must be *de novo*.¹ The evidence must be viewed in a light most favorable to upholding the jury's verdict.²

Rule 20(a), Arizona Rules of Criminal Procedure, provides in part:

On motion of a defendant or on its own initiative, the court shall enter a judgment of acquittal of one or more offenses charged in an indictment, information or complaint after the evidence on either side is closed, if there is no substantial evidence to warrant a conviction.

Arizona law requires that a trial judge shall grant a motion for judgment of acquittal when he or she has a "conscientious conviction" that the State has not proven all elements of the offense beyond a reasonable doubt.³

Arizona law provides in *State ex rel. Hyder v. Superior Court*⁴ that a trial judge may only reconsider her decision on a Rule 20 motion by making a determination that she had previously erred in considering improper evidence. Such a finding (that the judge had previously erred in considering improper evidence) is required, because in denying a Rule 20 motion for judgment

¹ *State v. Bible*, 175 Ariz. 549, 858 P.2d 1152 (1993).

² *State ex rel. Hyder v. Superior Court*, 128 Ariz. 216, 624 P.2d 1264 (1981).

³ *Id.*

⁴ *Id.*

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2004-000590-001 DT

11/03/2004

of acquittal at the conclusion of the State's case has already determined that the evidence was sufficient at that point and time.⁵ To rule then, on a renewed Rule 20 motion for judgment of acquittal that the evidence was not sufficient, a trial judge must find a mistake of law in the consideration of inadmissible or improper evidence.⁶

Unfortunately, the record in this case contains no specific findings by the trial judge, or reasons stated by her explaining her ruling granting a renewed 20 motion that the ruling on the renewed motion appears to be entirely inconsistent with her previous ruling denying the Rule 20 motion. This Court also notes that the record is devoid of any argument by Appellee's trial attorney, which would aid this Court in understanding the reasons or basis for a renewed Rule 20 motion. In fact, appellate counsel for Appellee is unable to point specifically to a legal grounds for the granting of the Rule 20 motion. Counsel offers several very plausible explanations that could explain the trial judge's ruling, yet all the explanations are mere speculation.

As a matter of public policy, judges should be granted leeway to reconsider their rulings for good cause shown.⁷ Good cause includes re-examination of a prior ruling when the court discovers an incorrect factual determination, or an incorrect legal ruling.⁸ Good cause may exist to grant a renewed motion for judgment of acquittal, but it is not apparent to this Court from this record.

This Court may not speculate or assume justification for the granting of a renewed Rule 20 Motion. Rather, this case must be reversed and remanded back to the Phoenix City Court with directions to vacate the order granting the renewed Rule 20 Motion. At that point, at his or her discretion, counsel for Appellee may file a written Rule 20 Renewed Motion for Judgment of Acquittal, pursuant to Rule 20.

IT IS THEREFORE ORDERED reversing and vacating the order of the Phoenix City Court in this case granting Appellee's Renewed Motion for Judgment of Acquittal, pursuant to Rule 20 of the Arizona Rules of Criminal Procedure.

IT IS FURTHER ORDERED remanding this case back to the Phoenix Municipal Court with directions to the Phoenix Municipal Court to consider any written renewed Rule 20 motions filed by counsel for Appellee, enter a judgment of guilt, and sentencing, if appropriate.

⁵ Id.

⁶ Id.

⁷ See State v. Rodriguez, 160 Ariz. 381, 773 P.2d 486 (App. 1989).

⁸ See State ex rel. Romley v. Superior Court, 183 Ariz. 139, 901 P.2d 1169 (App. 1995)(Good cause exists to correct a mistake in legal ruling); State v. Baca, 172 Ariz. 1, 832 P.2d 933 (App. 1992)(Good includes reconsideration of a motion to dismiss based upon incorrect factual representations).

SUPERIOR COURT OF ARIZONA
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LC2004-000590-001 DT

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/ s / HONORABLE MICHAEL D. JONES

JUDICIAL OFFICER OF THE SUPERIOR COURT